

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 UNITED STATES for the use and benefit
5 of AGATE STEEL, INC. and AGATE
6 STEEL, INC.,

7 Plaintiffs,

8 v.

9 JAYNES CORPORATION and WESTERN
10 SURETY COMPANY,

11 Defendants.

12 AND ALL RELATED CLAIMS.

Case No. 2:13-CV-01907-APG-NJK

**ORDER GRANTING MOTION FOR
ENTRY OF JUDGMENT**

(ECF No. 161)

13 Plaintiff Agate Steel, Inc. moves for entry of judgment in its favor based on my prior
14 order granting summary judgment in favor of Agate and against defendants Jaynes Corporation
15 and Western Surety Company. Jaynes and Western oppose, arguing that issues of fact remain as
16 to whether third party defendants American Steel Corporation and Ohio Casualty Insurance
17 Company will have to indemnify Jaynes for the amount owed to Agate.

18 Federal Rule of Civil Procedure 54(b) provides that “[w]hen an action presents more than
19 one claim for relief . . . , the court may direct entry of a final judgment as to one or more, but
20 fewer than all, claims or parties only if the court expressly determines that there is no just reason
21 for delay.” To determine whether to enter judgment as to fewer than all claims or parties, I must
22 determine whether I have rendered a judgment that finally disposed of an individual claim or
23 party entered in multi-party or multi-claims case and whether there is any just reason to delay
24 appeal of that decision. *Wood v. GCC Bend, LLC*, 422 F.3d 873, 878 (9th Cir. 2005). This
25 inquiry involves judicial efficiency considerations such as whether certification would result in
26 successive appeals on the same facts or legal issues; whether the adjudicated claims are
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1 independent of the remaining claims; whether future developments in the case might moot the
2 appeal; and whether delay in the entry of the judgment would cause financial harm.

3 *Id.* at 878-82. I also evaluate the equities. *Id.* at 878. “Analyzing a Rule 54(b) judgment requires
4 a pragmatic approach with focus on severability and efficient judicial administration.” *S.E.C. v.*
5 *Platforms Wireless Int’l Corp.*, 617 F.3d 1072, 1084 (9th Cir. 2010) (quotation omitted).

6 Here, I entered two orders finally disposing of Agate’s claims against Jaynes and Western.
7 ECF Nos. 149, 159. Agate has no other claims remaining in the case against any party nor is it a
8 defendant to any claims, counterclaims, or third party claims in the case. Accordingly, all claims
9 have been finally resolved as to Agate in this multi-party, multi-claim case.

10 Certification of my prior ruling in Agate’s favor would not result in unnecessary appellate
11 review because Agate’s claims against Jaynes and Western are independent of the remaining
12 claims between Jaynes and Western and third party defendants American Steel and Ohio
13 Casualty. The question of whether Agate is entitled to payment under Jaynes’ Miller Act bond is
14 legally and factually separate from whether American Steel must indemnify Jaynes. Although the
15 claims are related in that they arise out of the same construction project and will impact who
16 ultimately will bear financial responsibility for payment to Agate, the legal issues and the factual
17 disputes remaining have no impact on whether Agate is entitled to payment. Consequently, an
18 appellate court will not have to decide the same issues more than once even if there are
19 subsequent appeals. The only judicial efficiency factor weighing against certification is that if
20 American Steel must indemnify Jaynes, that potentially would moot an appeal by Jaynes.
21 However, all other factors favor certification, including that a further delay in payment of the
22 judgment is contrary to the Miller Act’s purpose of ensuring timely payment to sub-
23 subcontractors like Agate.

24 Viewing the equities, there is no just reason to delay entering judgment. Agate has been
25 awaiting payment for several years. It should not have to wait any longer while Jaynes and
26 Western on the one hand, and American Steel and Ohio Casualty on the other, resolve disputes
27 between them. Jaynes’ Miller Act bond was obtained for the purpose of ensuring payment to sub-
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1 subcontractors like Agate who perform work on the project. Withholding that payment while
2 Jaynes pursues possible indemnification would require Agate to wait for resolution of a dispute in
3 which it has no participation. I understand Jaynes and Western's desire to avoid paying if in fact
4 it turns out that American Steel or Ohio Casualty must indemnify Jaynes. But as stated in my
5 prior order, there is no genuine dispute that Jaynes and Western are liable to Agate. Whether
6 Jaynes can later obtain indemnification from other parties is a separate issue that should not delay
7 recovery by Agate.

8 IT IS THEREFORE ORDERED that Plaintiff Agate Steel, Inc.'s motion for entry of
9 judgment (**ECF No. 161**) is **GRANTED**. The clerk of court shall enter judgment in favor of
10 plaintiff Agate Steel, Inc. and against defendants Jaynes Corporation and Western Surety
11 Company in the amount of \$126,907.00 plus post-judgment interest at the statutory rate running
12 from the date of the judgment until paid.

13 DATED this 20th day of July, 2016.

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16 ANDREW P. GORDON
17 UNITED STATES DISTRICT JUDGE
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